

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

FILED

JUL 28 2009

CLERK, U.S. DISTRICT COURT
NORFOLK VA

JOHN YANNUCCI, #58038-054,

Petitioner,

v.

ACTION NO. 2:08cv561

PATRICIA R. STANSBERRY,

Respondent.

FINAL ORDER

Petitioner, a federal inmate, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. The petition alleges the Bureau of Prisons (BOP) failed to comply with the Second Chance Act of 2007, Publ. L. No. 110-199 (2008), when computing Petitioner's allowable time for placement in a Residential Re-Entry Center.

The petition was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for a Report and Recommendation. The Magistrate Judge's Report and Recommendation filed June 23, 2009, recommends dismissal of the petition because Petitioner failed to properly exhaust his administrative remedies. The Court has received no objections to the Report and Recommendation and the time for filing objections has expired.

The Court does hereby accept the findings and recommendations set forth in the Report and Recommendation filed June 23, 2009, and it is therefore ORDERED that Respondent's Motion to Dismiss be GRANTED, and that the petition be DENIED and DISMISSED. It is further ORDERED that judgment be entered in favor of Respondent.

Petitioner may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within sixty days from the date of entry of such judgment.

Petitioner has failed to demonstrate "a substantial showing of the denial of a constitutional right," therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. See Miller-El v. Cockrell, 537 U.S. 322, 336 (2003).

The Clerk shall mail a copy of this Final Order to Petitioner and to counsel of record for Respondent.

/s/
Rebecca Beach Smith
United States District Judge

UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

July 28, 2009